

FEB 7 - 1997

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Replacement of Part 90 by Part 88)
to Revise the Private Land Mobile)
Radio Services and Modify the)
Policies Governing Them)

PR Docket No. 92-235

Examination of Exclusivity and)
Frequency Assignment Policies of)
the Private Land Mobile Radio)
Services)

To: The Commission

REPLY COMMENTS
OF THE
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

The Personal Communications Industry Association ("PCIA"),¹ through counsel and pursuant to the Commission's Public Notice of January 28, 1997, respectfully submits its Comments in response to the letter filed on January 21, 1997 by the Industrial Telecommunications Association, Inc. ("ITA") in the above-captioned proceeding.²

¹PCIA is an international trade association representing the interests of both commercial mobile radio service ("CMRS") and private mobile radio service ("PMRS") users and businesses involved in all facets of the personal communications industry. PCIA's Federation of Councils include: the Paging and Narrowband PCS Alliance, the Broadband PCS Alliance, the Specialized Mobile Radio Alliance, the Site Owners and Managers Association, the Association of Wireless System Integrators, the Association of Communications Technicians, and the Private System Users Alliance. In addition, PCIA is the FCC-appointed frequency coordinator for the 450-512 MHz bands in the Business Radio Service, the 800 and 900 MHz Business Pools, 800 MHz General Category frequencies for Business eligibles and conventional SMR systems, and for the 929 MHz paging frequencies.

²DA 97-206.

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ITA has presented the Commission with a proposed "Consolidated Frequency Table" which represents ITA's vision of the frequency allocations for each Pool after the Commission completes the "Refarming" proceeding. PCIA appreciates the effort which ITA has made to ease the Commission's regulatory burden. However, in any undertaking of this size, questions are sure to be raised and errors are sure to be identified. PCIA has carefully reviewed the filing and the accompanying frequency table and limitations and wishes to offer the following comments:

I. RESPONSE TO ITA'S PROPOSED FREQUENCY TABLE

A. Treatment Of Railroad Frequencies

ITA proposes to give special treatment to current railroad frequencies. However, the filing fails to specify the rationale for railroads meriting special treatment in the form of a five year embargo on use of railroad frequencies by non-railroad eligibles. The filing specifically states "ITA recognizes that, **similar to virtually all private wireless licensees**, a portion of the railroad communications function is dedicated to pure "safety functions" (emphasis added). However, ITA fails to distinguish the reason for special treatment for current railroad frequencies, when there are other services which have similar needs. In reality, however, if railroad licensees require specific protection, each could apply for a protected service area (PSA) under the proposed exclusivity rules. This would give each railroad licensee protection from interference, a protection which could also be achieved by other licensees in other services.

ITA's proposed embargo applies to a fifty (50) mile radius of the top 50 metropolitan areas. Outside of these areas, the filing proposes to grant automatic PSAs to railroad licensees for a five year period. PCIA believes PSAs should not be automatic. If any licensees desires a PSA, they should apply for it. In such an event, the PSA can be granted permanently, not just for a period of five years. Finally, ITA has failed to identify why such PSAs are a good idea for non-metropolitan areas during the five year period, but not metropolitan areas.

B. Airport Terminal Use Frequencies

ITA's proposed limitation 28, regarding Airport Terminal Use ("ATU") frequencies, differs from the current rule found in §90.75(c)(25). Further, it appears that the narrative part of the filing is contradictory to proposed limitation 28.

The current rule restricts use of the ATU frequencies within 80 km (50 miles) of the designated airports. General business use can be licensed only outside that limit. Airport licensee base stations can operate up to 20 watts (current limitation 15) and mobiles up to 3 watts (current limitation 31). However, the current rules also allow for low power (2 watts or less) use by plant-type operations, so long as they are separated from designated airports by 16 km (10 miles).

The narrative part of ITA's filing refers to the 50 mile restriction. However, their proposed limitation 28 proposes a 10 mile restriction. Additionally, proposed limitation 28 refers to a 3 watt restriction for airport base stations, but the frequency

table portion of ITA's filing refers to 20 watts. Lastly, there is no reference to the plant-type/2 watt/10 mile operation.³ PCIA is unclear as to ITA's exact proposal for these frequencies. However, we wish to ensure that licensees on ATU frequencies continue to have the same rights and opportunities as they are currently entitled to.

C. 470-512 MHz Band

Because of the interleaved nature of the channels in the 470-512 MHz band, ITA proposes to consolidate the entire band in one pool. PCIA supports this proposal.

D. Consolidation of Low Band Channels

ITA has proposed that the 30-50 MHz and 72-76 MHz bands be included in the pool consolidation effort. While PCIA does not oppose this recommendation, PCIA is concerned that there has not as yet been a full discussion of this issue in the record. PCIA would prefer a rapid Commission decision on the 150 MHz and 450 MHz bands without delay, and subsequent discussions on similar action in the lower bands.

E. 450 MHz Offset Frequencies

ITA's proposed limitation 4 reads: "This frequency is available for private wireless systems first licensed prior to January 1, 1997, but prior authorized systems may be modified, expanded and renewed." This limitation is similar to Business

³There is a proposed 2 watt limitation 34. However, the limitation 34 reference is a general 2 watt limitation, not specific to ATU frequencies.

Radio Service limitation 50, as listed in the Report and Order⁴, which reads: "This frequency is available for systems first licensed prior to August 16, 1995. No new systems will be authorized after August 16, 1995, but prior authorized systems may be modified, expanded, and renewed."

The Report and Order lists twelve (12) Business Radio Service offset frequencies to which limitation 50 was applied. On October 27, 1995, the FCC issued an Erratum⁵ to the Report and Order which, in part, removed eleven (11) of the twelve (12) frequencies from the restrictions of limitation 50 and assigned to these frequencies a new limitation 52. New limitation 52 keeps the eleven (11) frequencies at 2 watts, provides for secondary operation only and allows for continued licensing.

The impact of the Erratum is to leave the eleven (11) frequencies with rules substantially similar to the pre-Refarming rules, i.e. the frequencies will remain low power, unlike the rest of the offsets. The eleven (11) frequencies are 462.7625, 462.7875, 462.8125, 462.8375, 462.8625, 462.8875, 462.9125, 467.8625, 467.8875, 467.9125, and 469.8625 MHz. The ITA filing has assigned a proposed limitation 4 to these 11 frequencies, contrary to the Erratum. Should the Commission ultimately adopt the frequency table as proposed by ITA, a correction should be made to make the table consistent with the Erratum.

⁴Report and Order and Further Notice of Proposed Rulemaking, PR Docket 92-235, FCC 95-255, 78 RR2d 384 (June 23, 1995).

⁵PR Docket 92-235, DA 95-2217 (October 27, 1995).

F. Paging Channels

In the 150 MHz band, there are two low power paging channels, 154.625 MHz and 158.460 MHz which are limited to 20 watts output power under both the old rules and the Refarming rules. However, ITA's filing does not specify a post-refarming 20 watt limitation for these two channels.

Additionally, paragraph 42 of the Memorandum Opinion and Order⁶ states that offset channels 462.9375, 464.9875, and 465.0125 MHz will remain low power in order to prevent harmful interference to adjacent paging channels. However, ITA's filing makes no reference to the low power retention. In fact, ITA has incorrectly assigned frequency 465.0125 MHz with their proposed limitation 33, which allows up to 35 watts. These corrections should be made to any frequency table resulting from this proceeding.

II. OTHER MATTERS

PCIA also wishes to take this opportunity to address two additional matters, unrelated to the ITA filing.

A. Telemetry Frequency

One correction needs to be made to the current limitations which differs from the pre-Refarming rules. There are currently four 154 MHz frequencies set aside for remote control and telemetry use. These frequencies are available in seven different radio services including the Business Radio Service. However, in the

⁶PR Docket 92-235, PR Docket 92-257, FCC 96-492 (December 30, 1996).

Refarming Report and Order, the Business Radio Service was not included in the eligibility section for one of the frequencies, 154.47875 MHz.

PCIA filed a Petition for Reconsideration asking, in part, that this eligibility be restored. However, the Commission did not address this matter in the Memorandum Opinion and Order. PCIA believes that this was merely an oversight on the Commission's part and PCIA asks again that the correction be made.

B. "Coalition" Ex Parte Presentation

On December 20, 1996, the "Coalition of Industrial and Land Transportation Radio Users" (hereinafter the "Coalition") submitted an ex parte statement with regard to the need for a common database and the need for coordinator concurrences from "home" coordinators. PCIA believes that the presentation raises issues which should be addressed in more detail.

In a consolidated pool, requiring concurrence from "home" coordinators is both unnecessary and counter-productive. Since all frequency advisory committees are held to the same standards for their coordination activities for the frequencies which they coordinate, such concurrence only delays the grant of an application. Since the beginning of this proceeding, PCIA has stated that there must be a common set of coordination guidelines for all coordinators in any consolidated pool. Requiring concurrence would therefore merely be redundant.

Further, the Commission's goal in a consolidated pool is competition between frequency advisory committees. If concurrence

is required, no competition will occur, since going to any coordinator other than the "home" coordinator for that particular frequency would result in delay. In addition, there would be a decrease in quality service, as some frequency advisory committees would be encouraged to delay their responses to requests.

In fact, such delays occur today. At any given time, there are approximately 50-60 applications at PCIA awaiting interservice concurrence from one or more coordinating committees. Approximately 35-40% of the applications awaiting concurrence do not receive a response from the other frequency advisory committee(s) within the twenty (20) working day time frame established by the Commission.

Thus, under the current system, where there is no incentive to delay responses to concurrence requests, there are nonetheless significant delays. The Commission should not eliminate the gains to be made in a consolidated pool by requiring concurrences.

With regard to a common database, PCIA has on several occasions (including its December 1995 Reply Comments) made its position on this issue known. Once again, PCIA reiterates that, while there must be a common data format for the exchange and filing of information, the utilization of a single database for other than reference purposes is neither desirable nor necessary. There cannot be truly competitive coordination with a national database because the database is a frequency advisory committee's major asset. A number of coordinating committees have expended millions of dollars creating what each believes is a premier

database tool. While it may be desirable from a business standpoint in some situations for multiple coordinators to use the same database, such decisions should be left to the marketplace.

The primary reason for establishing a national database is so that the various committees are coordinating frequencies using the same information. With regard to systems already licensed, the Commission's database must remain the sole authority to resolve disputes. However, with regard to pending coordinations, electronic transfer of all data through some form of electronic data exchange should be a requirement of all coordinating committees. In this manner, all databases may remain current.

Utilizing a single, national database is not prudent, as it eliminates the ability of a frequency advisory committee to customize the information available, depending on the needs of its customers. For example, PCIA's database includes an extensive history function. Using this function, coordinators may make notes or comments about conversations with the applicant or reasons why a coordination was or was not performed. This information is vital in resolving disputes which may arise years after the system is licensed. Additionally, this information is often proprietary in nature and not intended for external dissemination or review.

IV. **CONCLUSION**

WHEREFORE, the Personal Communications Industry Association respectfully requests that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

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